IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Writ Petition No. 201 of 2002 (M/B)

Mohammad Edrish alias Edrish Ahmad,
S/o Sri Hafij Mohd. Nabi,
R/o Line No. 5, Azad Nagar, Haldwani,
District Nainital. …. Petitioner

Versus

1. District Magistrate/Collector,
   Nainital.
2. Nagar Palika Parishad,
   Haldwani cum Kathgodam,
   District Nainital through its Executive Officer,
3. Sub Divisional Magistrate,
   Haldwani /
   Officer-in-Charge, Nagar Palika Parishad,
   Haldwani cum Kathgodam,
   District Nainital. …. Respondents

Mr. Alok Mehra, Advocate holding brief of Mr. Manoj Tiwari, Advocate for the petitioner.
Mr. N.C. Gupta, Standing Counsel for respondents Nos. 1 and 3.
None for respondent No. 2.

Coram: Hon'ble Rajeev Gupta, C.J.
Hon'ble Prafulla C. Pant, J.

RAJEEV GUPTA, C.J. (Oral)

Mr. Alok Mehra, Advocate holding brief of Mr. Manoj Tiwari, Advocate for the petitioner.

Mr. N.C. Gupta, Standing Counsel for respondents Nos. 1 and 3.

None for respondent No. 2.

They are heard.

2. The petitioner has filed this writ petition for the following reliefs:

> "A. To issue a writ order or direction in the nature of certiorari for quashing the order dated 7.5.2002 issued by the Respondent No. 2.
>
> B. To issue a writ order or direction in the nature of mandamus restraining the Respondents

from demolishing Shop No. 32 which is under the tenancy of the Petitioner.

C. To issue any other suitable writ order or direction as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case."

3. The petitioner is aggrieved of the notice dated 07.05.2002 (Annexure No. 3) issued by respondent No. 2 Nagar Palika Parishad Haldwani, whereby the petitioner was directed to demolish the unauthorized construction over the Nala himself or else, the Nagar Palika Parishad would demolish it at the cost of the petitioner.

4. On a perusal of the notice (Annexure No. 3), it is apparent that the petitioner was directed to demolish the unathorished construction in compliance of the directions of the High Court in Public Interest Litigation No. 879 of 2001. The petitioner could not demonstrate that the construction, which is sought to be demolished vide notice (Annexure No. 3) was not an unauthorized construction over the Nala.

5. In this view of the matter, we do not find any good ground for interference in the matter of demolition of the unauthorized construction over the Nala.

6. The writ petition, therefore, is liable to be dismissed and is, hereby, dismissed.

(Prafulla C. Pant, J.) **(Rajeev Gupta, C.J.)**

18.05.2006 **18.05.2006**

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